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Proposals and contributions received from Governments

Austria and Netherlands: proposed text of the United Nations Convention against Corruption

United Nations Convention against Corruption

Preamble

[*The General Assembly*],

Concerned by the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development,

Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

Convinced that, since corruption is a phenomenon that currently crosses national borders and affects all societies and economies, international cooperation to prevent and control it is essential,

Convinced also of the need to provide, upon request, technical assistance designed to improve public management systems and to enhance accountability and transparency,

Commending the work of the Commission on Crime Prevention and Criminal Justice and the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat in combating corruption and bribery,

Recalling the work carried out by other international and regional organizations in this field, including the activities of the Council of Europe, the

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European Union, the Organisation for Economic Cooperation and Development and the Organization of American States,

Welcoming multilateral initiatives to combat corruption, including, inter alia, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1977,[1] the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,[2] the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997,[3] the Dakar Declaration on the Prevention and Control of Organized Transnational Crime and Corruption, adopted by the African Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held in Dakar from 21 to 23 July 1997,[4] the Manila Declaration on the Prevention and Control of Transnational Crime, adopted by the Asian Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held in Manila from 23 to 25 March 1998,[5] the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,[6] and the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 9 September 1999,[7]

[*Adopts* the United Nations Convention against Corruption]

[*Source:* General Assembly resolutions 51/59 and 53/176.]

I. General provisions

Article 1
Statement of purpose

The purposes of this Convention are:

(a) To promote and strengthen measures to prevent and combat corruption and criminal acts related specifically to corruption more effectively;

(b) To promote, facilitate and support cooperation among States Parties in the fight against corruption.

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[1] See *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

[2] See E/1996/99.

[3] *Official Journal of the European Communities*, C 195, 25 June 1997.

[4] E/CN.15/1998/6/Add.1, chap. I.

[5] E/CN.15/1998/6/Add.2, chap. I.

[6] Council of Europe, *European Treaty Series*, No. 173.

[7] Ibid., No. 174.

Article 2
Use of terms

[*To be completed.*]

"Public official"

"Legal person"

"Property"

"Proceeds of crime"

"Freezing or seizure"

"Confiscation"

"Predicate offence"

"Preventive measures"

etc.

Article 3
Scope of application

This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of corruption and criminal acts related specifically to corruption, irrespective of whether they involve public officials or have been committed in the course of business activity.

Article 4
Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

[*Source:* Article 4 of the United Nations Convention against Transnational Organized Crime (the "Organized Crime Convention").]

II. Preventive measures

Article 5
National integrity strategy and policies

1. Each State Party shall develop a national anti-corruption strategy to ensure that the necessary measures are nationally coordinated, in both planning and implementation.

2. States Parties shall endeavour to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to corruption and criminal acts related specifically to corruption.

3. States Parties shall endeavour to develop and evaluate national projects and to establish and promote best practices and policies aimed at the prevention of corruption and criminal acts related specifically to corruption.

4. Each State Party shall, in accordance with its domestic law, establish bodies suitable to fight corruption, such as:

(a) A national anti-corruption agency to survey the national anti-corruption strategy referred to in paragraph 1 of this article;

(b) A public service commission and ombudsman.

5. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in developing and implementing a national integrity strategy. Such information shall contain the name and address of bodies referred to in paragraph 4 of this article.

6. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this article. This shall include participation in international projects aimed at the prevention of corruption and criminal acts related specifically to corruption.

[*Source:* Article 31, paragraphs 1, 4, 6 and 7, of the Organized Crime Convention (with slight changes).]

Article 6
Public administration

States Parties shall endeavour to adopt, maintain and strengthen:

(a) Systems of government hiring of public officials that ensure openness, equity and efficiency;

(b) Systems based on objective criteria, for open and merit-based hiring and promotion of public officials;

(c) Systems for thorough screening of public officials for sensitive positions;

(d) Systems establishing adequate salaries and harmonization of payments and facilitating efficient job rotation;

(e) Education and training programmes for public officials to enable them to meet the requirements of the correct, honourable and proper performance of public functions.

[*Source:* Guiding Principles for Fighting Corruption and Safeguarding Integrity among Justice and Security Officials proposed at the Global Forum on Fighting Corruption: Safeguarding Integrity among Justice and Security Officials, held in Washington, D.C., from 24 to 26 February 1999 (excerpts).]

Article 7
Code of conduct for public officials

1. Each State Party shall agree to apply within its own institutional and legal system standards of conduct for the correct, honourable and proper performance of public functions. Those standards shall be intended to prevent conflicts of interest and shall mandate the proper conservation and use of resources entrusted to public officials in the performance of their functions.

2. States Parties shall endeavour to incorporate into those standards the elements mentioned in the International Code of Conduct for Public Officials that appears in the annex to this Convention.

3. In addition, each State Party shall also, where appropriate, establish measures and systems to require public officials:

(a) To report to appropriate authorities acts of corruption committed in the performance of public functions;

(b) To make a declaration to appropriate authorities with respect to any gift or benefit obtained in the course of their duties and functions as public officials and any other employment or investment that may constitute a conflict of interest with respect to their functions as public officials.

4. States Parties shall create, maintain and strengthen mechanisms to enforce the standards established in accordance with paragraphs 1 and 3 of this article. In this respect, States Parties shall consider adopting where appropriate and in accordance with the fundamental principles of their domestic law, disciplinary measures against public officials who violate those standards.

[*Source*: Article III, paragraphs 1 and 2, of the Inter-American Convention against Corruption (with changes).]

Article 8
Public procurement and public financial management

1. Each State Party shall take the necessary steps to establish procurement rules based on transparency, openness and competition. Such rules shall include, inter alia:

(a) Public distribution of information on both tenders and awarded contracts;

(b) Use of predetermined and objective selection criteria and bidding rules, incorporating appropriate threshold values; and

(c) The requirement to base public procurement decisions on objective and transparent reasons in order to facilitate the subsequent verification of the correct application of the rules.

2. Each State Party shall take all relevant measures to ensure:

(a) The existence of and compliance with transparent procedures for the management of public finances, including the preparation and approval of the national budget; and

(b) Timely reporting on expenditure and timely submission of accounts to ensure effective and objective scrutiny of public finances; and

(c) Adequate powers of remedy in the case of failure to comply with the requirements established in accordance with this paragraph.

Article 9
Public reporting

Each State Party shall take the necessary measures to establish appropriate systems for public reporting. Those systems may include:

(a) Reporting requirements for government departments and agencies;

(b) Publication of annual government reports.

Article 10
Funding of political parties

1. Each State Party shall adopt, maintain and strengthen measures and regulations concerning the funding of political parties. Such measures and regulations shall serve:

(a) To prevent conflicts of interest and the exercise of improper influence;

(b) To preserve the integrity of democratic political structures and processes;

(c) To proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and

(d) To incorporate the concept of transparency into funding of political parties by requiring declaration of donations exceeding a specified limit.

2. Each State Party shall regulate the simultaneous holding of elective office and responsibilities in the private sector so as to prevent conflicts of interest.

[*Source:* Paragraph 1 is based on paragraph 8 of the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption; paragraph 2 has been taken from conclusion 12 of the Third European Conference of Specialized Services in the Fight against Corruption, organized by the Council of Europe in Madrid from 28 to 30 October 1998.]

Article 11
Private sector

1. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for engaging in corruptive practices, involving one or more legal persons incorporated within their jurisdiction, through appropriate legislative, administrative or other measures. Those measures should focus on:

(a) Strengthening cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants;

(c) Establishing an adequate supervisory framework for financial institutions, based on the principles of transparency, accountability and sound corporate governance and with appropriate capacity for international collaboration on cross-border financial transactions;

(d) Preventing the misuse of legal persons for corruption or criminal acts related specifically to corruption, inter alia, through the establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons.

2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to promote transparency and competition among companies incorporated within their jurisdiction, by avoiding any such regulations as may be redundant or prone to misuse as a result of corruption.

3. Each State Party shall deny the tax deductibility of bribes, the latter being one of the constituent elements of the offences established in accordance with article 14 or 15 of this Convention.

[*Source:* Paragraph 1 is based on article 31, paragraph 2, of the Organized Crime Convention (amended); paragraph 2 reflects the principle of deregulation; paragraph 3 reflects the principle expressed in the 1996 Recommendation of the Council of the Organisation for Economic Cooperation and Development (OECD) on the Tax Deductibility of Bribes to Foreign Public Officials.]

Article 12
Accounting

1. In order to combat corruption effectively, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the establishment of off-the-book accounts, the making of off-the-book or inadequately identified transactions, the recording of non-existent expenditure, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of committing any of the offences established in accordance with article 14, 15 or 16 of this Convention or of hiding such offences.

2. Each State Party shall provide effective, proportionate and dissuasive civil, administrative or criminal penalties for such omissions and falsifications in respect of the books, records, accounts and financial statements of such companies.

[*Source:* Article 8 of the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions (with slight changes).]

Article 13
Civil society

Each State Party shall take appropriate measures within its means to promote an active civil society and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. The role of civil society should be strengthened by measures such as:

(a) Inclusion of the public in decision-making processes;

(b) Optimum access to information for the public and the media;

(c) Protection of "whistle-blowers" as set forth in article 23 of this Convention;

(d) Public support for networks of non-governmental organizations; and

(e) Public information activities that contribute to non-tolerance of corruption as well as programmes of public education, including school curricula.

[*Source:* Article 31, paragraph 5, of the Organized Crime Convention (with changes).]

III. Criminalization and law enforcement

Article 14
Criminalization of corruption involving a public official

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences conduct referred to in paragraph 1 of this article involving a foreign public official or international civil servant. Likewise, each State Party shall consider establishing as criminal offences other forms of corruption.

3. Each State Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this article.

[*Source:* Article 8 of the Organized Crime Convention (with changes).]

Article 15
Criminalization of corruption in the private sector

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of business activity:

(a) The promising, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works for, in any capacity, a private sector entity, for the person himself or herself or another person or entity, in order that he or she act or refrain from acting in the exercise of his or her duties;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works for, in any capacity, a private sector entity, for the person himself or herself or another person or entity, in order that he or she act or refrain from acting in the exercise of his or her duties.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with paragraph 1 of this article.

[*Source*: Paragraph 1 is based on articles 7 and 8 of the Criminal Law Convention on Corruption of the Council of Europe, although its language has been adapted to the terminology of article 8 of the Organized Crime Convention; paragraph 2 corresponds to article 8, paragraph 3, of the latter Convention.

Note. It should be realized, that this text extends the scope of the Convention considerably.]

Article 16
Criminalization of money-laundering of proceeds of corruption

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

3. For purposes of implementing or applying paragraph 1 of this article, each State Party shall include as predicate offences all offences established in accordance with this Convention.

[*Source:* Article 6 of the Organized Crime Convention (with changes).]

[*Article 17*]
Trading in influence

[*Note.* Article 12 of the Criminal Law Convention on Corruption of the Council of Europe contains a description of trading in influence as a criminal offence. It could be argued, however, that the general criminalization provisions above already cover most situations envisaged under that article. The concept is also vague and it may prove to be difficult to make a clear distinction between criminal and regular lobbying activities.]

Article 18
Liability of legal persons

1. Each State Party shall take such measures as may be necessary, in accordance with fundamental principles of its domestic law, to establish the liability of legal persons for participation in the crimes set forth in articles 14, 15 and 16 of this Convention.

2. In accordance with the fundamental principles of the domestic law of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

[*Source:* Article 10 of the Organized Crime Convention (with changes).]

Article 19
Specialized authorities

Each State Party shall take such measures as may be necessary to ensure that persons or entities are specialized in the fight against corruption. They shall have the necessary independence, in accordance with fundamental principles of the domestic law of the State Party, to be able to carry out their functions effectively and free from any undue pressure. Each State Party shall ensure that the staff of such entities has adequate training and financial resources to carry out their tasks.

[*Source:* Article 20 of the Criminal Law Convention on Corruption of the Council of Europe (with changes).

Note. This general article includes the important element of sufficient specialized personnel to fight corruption, as well as the requirement of necessary independence. If there were general agreement to do so, this provision could be extended to make reference to the creation, maintenance and strengthening of anti-corruption institutions or ombudsmen.]

Article 20
Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with articles 14, 15 and 16 of this Convention liable to criminal sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

3. States Parties shall consider the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by this Convention from acting as directors of legal persons incorporated within their jurisdiction and the establishment of national records of persons thus disqualified from acting as directors of legal persons.

4. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

5. Each State Party shall, where appropriate, establish under its domestic law a statute of limitations period applicable to the offences established in accordance with articles 14, 15 and 16 of this Convention, which shall allow an adequate period of time for the investigation and prosecution of these offences. That period of time shall be longer in cases where the alleged offender has evaded the administration of justice.

6. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against public officials or international civil servants. In determining the criminal sanction to be imposed, the national criminal courts may, in accordance with fundamental principles of their domestic law, take into account any disciplinary sanction already imposed on the same person for the same conduct.

7. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

[*Source:* Article 11 of the Organized Crime Convention; paragraph 4 has been taken from article 31, paragraph 3, of the Convention; paragraph 6 is based on article 5, paragraph 2, of the European Union Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union.]

Article 21
Confiscation and seizure

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable c nfiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 33 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with fundamental principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

[*Source:* Article 12 of the Organized Crime Convention.]

Article 22
Cooperation with and between national authorities

Each State Party shall take such measures as may be necessary to ensure that public authorities, as well as any public official, cooperate, in accordance with its domestic law, with those of its authorities responsible for investigating and prosecuting criminal offences:

(a) By informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the criminal offences established in accordance with articles 14, 15 and 16 of this Convention has been committed; or

(b) By providing, upon request, to the latter authorities all necessary information.

[*Source:* Article 21 of the Criminal Law Convention on Corruption of the Council of Europe.

Note. Although the Organized Crime Convention does not contain a specific article on cooperation with and between national authorities, it seems legitimate to follow the example of the Council of Europe in the case of the offences under consideration. In order to fight corruptive practices, it is essential that all material be made available for purposes of investigation and prosecution. In that regard, mention can be made of the need for close cooperation with, inter alia, financial authorities.]

Article 23
Protection of "whistle-blowers" and witnesses

1. Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for "whistle-blowers" and witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the "whistle-blower" or witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

[*Source:* Article 24 of the Organized Crime Convention (with slight changes).]

Article 24
Measures to enhance cooperation with law enforcement authorities

1. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

2. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from persecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Protection of such persons shall be as provided for in article 23 of this Convention.

[*Source:* Article 26 of the Organized Crime Convention.]

Article 25
Jurisdiction

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over offences established in accordance with articles 13, 14 and 15 of this Convention when:

(a) The offence is committed in whole or in part in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory.

3. For the purposes of article 26 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that one or more other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

[*Source:* Article 15 of the Organized Crime Convention.

Note. Consideration could be given to including in this part of the Convention references to administrative measures. In particular, reference could be made to the suspension or revocation of licences or permits issued by the Government and to temporary or permanent disqualification with respect to bids on government contracts.]

IV. International cooperation

Article 26
Extradition

1. This article shall apply to the offences covered by this Convention, where the person who is the subject of the request for extradition is located in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. If the request for extradition includes several separate serious crimes, some of which are not covered by this article, the requested State Party may apply this article also in respect of the latter offences.

3. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

5. Each State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

10. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidenciary aspects, to ensure the efficiency of such prosecution.

11. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.

12. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment of all stages of the proceedings, including enjoyment of all the rights

and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

14. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of those reasons.

15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

[*Source:* Article 16 of the Organized Crime Convention.]

Article 27
Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences covered by this Convention, in order that they may complete their sentences there.

[*Source:* Article 17 of the Organized Crime Convention.]

Article 28
Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention, where victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 18 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures, and freezing;

(d) Examining objects and sites;

(e) Providing information, evidentiary items and expert evaluations;

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic

channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedure specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult

with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe

conduct shall cease when the witness, expert or other persons having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

[*Source:* Article 18 of the Organized Crime Convention.]

Article 29
Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

[*Source:* Article 21 of the Organized Crime Convention.]

Article 30
Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(e) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to corruption and criminal acts related specifically to corruption committed through the use of modern technology.

[*Source:* Article 27 of the Organized Crime Convention (with slight changes).]

Article 31
Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

[*Source:* Article 19 of the Organized Crime Convention.]

Article 32

Collection, exchange and analysis of information on the nature of corruption and criminal acts related specifically to corruption

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in corruption and criminal acts related specifically to corruption in its territory, the circumstances in which these offences are committed, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning corruption and criminal acts related specifically to corruption with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.

3. States Parties shall consider monitoring their policies and actual measures to combat corruption and criminal acts related specifically to corruption and making assessments of their effectiveness and efficiency.

[*Source:* Article 28 of the Organized Crime Convention (with slight changes).]

Article 33

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 21, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 21, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 21, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 21, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 28 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 28, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence covered by this Convention.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

[*Source:* Article 13 of the Organized Crime Convention.

Note. The contents of this article offer the first elements for a solution to the problem of international cooperation in the case of transfer of embezzled public funds to a foreign country. Consideration could usefully be given to additional elements, which would, for example, accelerate procedures (priority treatment or direct contact between enforcement authorities; establishment of a clearing house; and inclusion of "abuse of power by members of the Government" as an additional offence).]

Article 34
Disposal of confiscated proceeds of crime or property

1. Proceeds of crime or property confiscated by a State Party pursuant to article 21 or 33, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article 33 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime, return such proceeds of crime or property to their legitimate owners or, in the case of embezzled public funds, return it to the relevant public funds.

3. When acting on the request made by another State Party in accordance with articles 21 and 33 of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 36, paragraph 2 (c), of this Convention and to intergovernmental bodies specializing in the fight against corruption;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

[*Source*: Article 14 of the Organized Crime Convention, with a slight change to paragraph 2 in order to include embezzled public funds.]

Article 35
Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

(a) Methods used in the prevention, detection and control of the offences covered by this Convention;

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other

instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

(d) Collection of evidence;

(e) Control techniques in free trade zones and free ports;

(f) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;

(g) Methods used in combating corruption and criminal acts related specifically to corruption, committed through the use of computers, telecommunication networks or other forms of modern technology; and

(h) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussions on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

[*Source:* Article 29 of the Organized Crime Convention (with slight changes).]

Article 36

Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of corruption on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat corruption and criminal acts related specifically to corruption;

(b) To enhance financial and material assistance to support the efforts of developing countries to fight corruption and criminal acts related specifically to corruption effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of corruption and criminal acts related specifically to corruption.

[*Source:* Article 30 of the Organized Crime Convention (with slight changes).]

V. Final provisions

[*To be completed.*]

Article 37
Signature and accession

Article 38
Ratification and depositary

Article 39
Entry into force

Article 40
Amendment

Article 41
Denunciation

Article 42
Monitoring and follow-up

Annex

International Code of Conduct for Public Officials

I. General principles

1. A public office is a position of trust, implying a duty to act in the public interest. Therefore, public officials shall act solely in terms of the public interests of their country as expressed through the democratic institutions of government. They shall not do so in order to gain financial or other material benefits for themselves, their family or their friends.

2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them. In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office shall make choices on merit.

II. Conflict of interest and disqualification

4. Public officials shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.

5. Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.

6. Public officials shall not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties.

7. Public officials shall at no time improperly use public funds, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.

8. Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.

III. Accountability

9. Public officials are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

10. Public officials shall, in accord with their position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and dependants.

IV. Openness

11. Public officials should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

V. Confidential information

12. Matters of a confidential nature in the possession of public officials shall be kept confidential unless national legislation, the performance of duty or the needs of justice strictly require otherwise. Such restrictions shall also apply after separation from service.

VI. Political activity

13. The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in their ability to perform their functions and duties in an impartial manner.

[*Source:* General Assembly resolution 51/59, annex, supplemented with elements taken from the Nolan Principles Governing Conduct of Public Office Holders (United Kingdom, 1999).]